

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
BLUE RIO LLC, and PETER FINE :
Plaintiffs, : Civ. Action No. 7:17-cv-02015 (VB)
: **NOTICE OF MOTION TO DISMISS**
-against- :
CITY OF MOUNT VERNON MAYOR :
RICHARD THOMAS, in his individual and :
official capacities, MICHAEL GIANATASIO, :
and the CITY OF MOUNT VERNON, :
Defendants. :
-----X

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the annexed Affirmation of Jeffrey D. Buss, Esq., dated April 28, 2017, together with the exhibits annexed thereto, and the accompanying Memorandum of Law, the undersigned will move this Court, before the Honorable Vincent Briccetti, United States District Judge for the Southern District of New York, at the United States Courthouse, 300 Quarropas Street, White Plains, New York, 10601, at a date and time to be determined by the Court, for an order dismissing the Plaintiffs' Complaint in this action, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, with prejudice, and for such further and other relief as the Court may deem just and proper.

Respectfully submitted,

Dated: Yonkers, New York
April 28, 2017

SMITH, BUSS & JACOBS LLP

By: /s/ Jeffrey D. Buss
Jeffrey D. Buss
Nancy Durand
733 Yonkers Avenue, Suite 200
Yonkers, New York 10704
(914) 476-0600
Attorneys for Defendants

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

-----X
BLUE RIO LLC, and PETER FINE :
: Plaintiffs, :
: -against- : Civ. Action No. 7:17-cv-02015 (VB)
: :
CITY OF MOUNT VERNON MAYOR :
RICHARD THOMAS, in his individual and :
official capacities, MICHAEL GIANATASIO, :
and the CITY OF MOUNT VERNON, :
: [PROPOSED] ORDER
: Defendants. :
: -----X

[PROPOSED] ORDER GRANTING MOTION TO DISMISS

Upon consideration of the parties' respective papers and arguments, Defendants' Motion to Dismiss Plaintiffs' Complaint is hereby **GRANTED** in its entirety. Therefore, this action is **DISMISSED**, with prejudice.

SO ORDERED.

Dated: This ____ day of
_____, 2017.

Vincent L. Briccetti
United States District Judge